

Re: A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process

From: [REDACTED]
To: Moore, Ric@DCA <Ric.Moore@dca.ca.gov>
Cc: emathieson@exponent.com, Criswell, Tiffany@DCA <Tiffany.Criswell@dca.ca.gov>
Subject: Re: A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process
Date: Monday, April 16, 2018 1:55 PM
Size: 57 KB

Thanks again for responding.

I don't see how Ms. Lowe's response addressed any facts in the complaint. Ms. Lowe stated that the preparation of the report did not constitute the practice of engineering simply because no Prop 218 required report constitutes the practice of engineering in the opinion of the Board. I'd be interested to know which specific facts she responded to in her response.

However, as you have assured me that my understanding must be wrong and that, contrary to appearance, all complaints are read and all responses are based on the facts present in the complaint, I feel more willing to submit a complaint, which I will do reasonably soon.

Thanks again for being willing to discuss the issue.

[REDACTED]

On Mon, Apr 16, 2018, at 1:16 PM, Moore, Ric@DCA wrote:

With all due respect, I believe there is a misunderstanding in this correspondence related to what is a "policy" and what is a decision or findings related to an investigation. Ms. Lowe's response is related to that specific investigation based on facts discovered related to that submitted complaint. Ms. Criswell's statements are related to your inquiry on this and represents recollection on the part of longtime staff as to whether this issue arose in the past. In either instance, if the information was part of an enforcement investigation, any reference to this topic would be based solely on the specific facts of that specific investigation and not a general policy. Likewise, if an outside, independent licensed expert was tasked with providing a report on the technical aspects related to a complaint and investigation, and which this topic was part of the investigation, that expert's report would be based solely on the specific facts of that specific investigation and not a general policy. The expert's opinions in these matters are precedential in nature and cannot be considered as a policy decision related to the general topic. There has only been one occurrence when the Board established a precedential decision that I am aware of and that requires action by the Board at a meeting. This can be found at http://www.bpelsg.ca.gov/pubs/precedent_decisions_list.shtml

Sometimes, the Board receives letters of inquiry where questions are asked related to whether some action is considered as the practice which would require a license. The Board will research the issue and respond accordingly to the actual questions that were asked, nothing more, nothing less with a caveat that should other facts or information relative to the inquiry subsequently become known to the Board, the response may change. These types of inquiries/responses are likely more general in nature, but still are considered as a "policy" of the Board nor precedential. I cannot recall any inquiries related to your topic in the 11 years I've worked at the Board.